

**REMARKS**

In the Office Action mailed July 25, 2006, Claims 1, and 3-15 were pending. Each of these claims was rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. Further, Claims 1, 3-7, and 10-15 were rejected under 35 U.S.C. 102(b) as allegedly anticipated by U.S. Pat. No. 5,342,631 (hereinafter "U.S. '631"). Finally, each of the Claims 1, and 3-15 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. '631 in view of Pat. No. 4,824,681 (hereinafter "U.S. '681").

By the present amendment, Claim 1 has been amended to add clarity with regard to the active agent element in the claim. No new matter was added by the present amendment. Additionally, it is to be noted that the present amendment is made without conceding the correctness of the current rejection, but solely for the purposes of expediting prosecution in the present case. Applicant expressly reserves the right to pursue any relinquished or canceled subject matter in a future patent application.

Each of the above-recited rejections will be addressed in turn below. It is respectfully requested that the Examiner further consider the application in view of these remarks.

**The Present Invention**

Before discussing each of the rejections a brief summary of the present invention is made. The present invention is drawn to a sugar-free soft-chew tablet composition comprising a reheatable composition that include at least two polyols in an amount from 15 to 80% by weight and being selected from the group consisting of hydrogenated starch hydrolysate, maltitol, lactitol, and mixtures thereof, an emulsifier system present in an amount from about 1.0 to 30% by weight, water in an amount of 0 to 15% by weight, and optionally components such as colors,

flavors, and binders. An active agent can be included in an amount from about 0.1 to 70% by weight. The active agent can be added to the reheatable composition either upon cooling or after the composition has been cooled and later reheated to form the soft chew tablet.

Rejections under 35 U.S.C. § 112, second paragraph

The Examiner has rejected claims 1, and 3-15 under 35 U.S.C § 112, second paragraph, as failing allegedly being indefinite. In particular the Examiner asserted that claim 1 was unclear as to whether the active agent was a required element. Although the Applicant's don't believe that any ambiguity in the claim existed, claim 1 has been amended to make it clear that the active ingredient is indeed a required element of the claim. Specifically, the claim was rearranged to enhance clarity with regard to the active agent element. Therefore any alleged ambiguity has been eliminated and the Applicant respectfully requests that this rejection be withdrawn.

Rejections under 35 U.S.C. 102(b)

The Examiner has maintained the rejection of claims 1, 3-7, and 10-15 under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. '631. U.S. '631 teaches a petroleum wax-free chewing gum containing special a petroleum wax-free gum-base and nancoriogenic oligosaccharaides. The Examiner has asserted that the cited reference teaches a composition with "the same ingredients as claimed in the same amounts as claimed" and therefore "the reference composition would inherently have to have the same reheatable characteristic if applicant's composition functions as claimed." Although the '631 patent may teach a composition which has some of the same ingredients as required in the present claims, the compositions taught in the '631 patent also include a petroleum wax-free gum-base. Applicant's

assert that the inclusion of the petroleum wax-free gum-base in the compositions of the '631 patent render the composition, as other gum products, un-reheatable. As such, the compositions of the '631 patent are inherently distinct from the claimed compositions of the present invention which are reheatable. As the cited reference does not teach a reheatable sugar-free chew composition it fails to teach each and every element of the pending claims. Therefore, it is respectfully requested that the rejection of independent Claim 1 and its related dependent claims be withdrawn and the claims be allowed.

Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 1, under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. '631 in view of U.S. '681. The Applicant respectfully submits that these claims are patentable over the cited reference for the reasons set forth below, and that the rejection should be withdrawn.

The inventive focus of U.S. '681 is an extended release sweetener composition comprising solid particles of a sweetening agent coated with a coating material. The coating material can include a hydrophobic polymer and a hydrophobic plasticizer. The reference further teaches that the sweetening agent can be used in compositions that are held in the mouth, such as gum, for a long time in order to utilize the full benefit of the lengthened sweetening effect provided by the sweetening agent. However, nothing in the '681 reference teaches or suggests a reheatable composition of any kind as required by the claims of the present invention. As discussed above, U.S. '631 also fails to teach the required reheatable composition. Furthermore, neither does the combination of such references teach or suggest the reheatable aspect. Therefore, individually and collectively the two cited references fail to teach each and every

element of the presently pending claims. As such, it is respectfully requested that this rejection be withdrawn and the pending claims be allowed.

**CONCLUSION**

In view of the foregoing, Applicant believes that pending claims 1 and 3-15 present allowable subject matter and are in condition for allowance or appeal. If any impediment to the allowance of these claims remains after consideration of the above remarks, and such impediment could be removed during a telephone interview, the Examiner is invited to telephone the undersigned attorney at (801) 566-6633 so that such issues may be resolved as expeditiously as possible.

Please charge any additional fees except for Issue Fee or credit any overpayment to Deposit Account No. 20-0100.

Dated this 19<sup>h</sup> day of September, 2006.

Respectfully submitted,



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